IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 4897 of 2007

Date of decision: 01.10.2007

Daljit Singh Sachdeva ..... Petitioner

Versus

Punjab National Bank and others .... Respondents

Coram: Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice Ajay Kumar Mittal

Present: Mr. Girish Agnihotri, Sr. Advocate,
with Ms. Binayjeet Sheoran, Advocate,
for the petitioner.

Mr. R.S.Bhatia, Advocate,
for respondent No. 1.

Mr. Sunil Chadha, Advocate,
for respondents No. 2 and 3.

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M.M.Kumar, J.

It is undisputed that the instant petition was entertained on the ground that the Debts Recovery Tribunal was not available to entertain the appeal at the relevant time. When the matter came up for consideration on 30.03.2007, the petitioner through his counsel had undertaken to deposit a sum of Rs. 7,00,000/- with the respondent-Bank and accordingly, it was directed that within a period of three days, the amount was to be deposited without prejudice to his rights and subject to further order of this Court. An interim direction was also issued that the auction, which was scheduled to be held on 30.03.2007 was to remain stayed. The matter has remained pending.

In the reply filed by the respondent-Bank, it has been pointed out that the Tribunal is now regularly available and, therefore, the remedy of appeal under Section 30 of the Recovery of Debts Due to Banks and Financial Institution Act, 1993 (for brevity 'the Act') is available to the petitioner.

Learned counsel for respondents No. 2 and 3 adopts the reply filed by the respondent-Bank.

Mr. Girish Agnihotri, learned senior counsel for the petitioner has submitted that the petitioner, who is a guarantor, may be granted liberty to avail the remedy of appeal and his interests may be safeguarded. Learned counsel has further submitted that the period of limitation for filing appeal has since expired, the respondents be directed not to raise any objection with regard to the limitation. He has also submitted that the amount of Rs. 7,00,000/- deposited under the directions of this Court shall be made subject to further orders from the Debts Recovery Tribunal and that the property belonging to the petitioner shall not be auctioned.

Having heard the learned counsel, we are of the view that the proper course available to the petitioner is to file an appeal under Section 30 of the Act before the Tribunal. If the period of limitation has expired, then an appropriate application is required to be filed before the Tribunal, which shall be considered by taking into account that the instant petition has remained pending and the delay may be condoned. With regard to stay of auction and the amount of Rs. 7,00,000/- deposited on the direction of this Court, an appropriate application has to be filed by the petitioner before the Tribunal for seeking appropriate relief. If any such application is filed, then the same shall be disposed of by the Tribunal in accordance with law.

In view of the above, the writ petition is disposed of with liberty in the aforementioned terms.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

October 01, 2007
pj